

# FEDERAL TAX CREDIT FOR THOSE ADOPTING WITH A SUBSIDY

By Margaret A. Burt, Esq.  
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As of tax year 2003, those that adopt a “special needs” child in NYS can claim a federal tax credit in the year that they adopt for each child that qualifies. This was a major change from the past when the only persons who could claim tax credits were families who had actually paid out monies to do the adoption. That tax credit still exists and is available but now our child welfare adoptions of a foster child eligible for a subsidy can take a tax credit even though the family themselves have had no out of pocket expenses.

**President Obama’s health reform bill has upped the amount of the credit and in tax year 2010, the tax credit is \$13,170.**

The family’s income is a factor – in 2009 they had to earn less than \$222,180 to take the full credit but that amount will be changed yearly to reflect inflation, so check for the 2010 number. Prior to 2010, you could carry over the credit 5 years until it was used up! **But under Obama’s new health reform bill, if the credit is more than your tax liability, the difference is refunded instead of having to spend years “using up” the credit!!**

THIS IS A GREAT HELP - particularly for foster families that are adopting multiples. The definition of the “special needs” child that the IRS uses for purposes of eligibility includes ALL of the reasons that we give subsidies in NYS so **anyone adopting a foster child who is entitled to a state adoption subsidy in NYS can take this credit if their income is within the guidelines.**

Clients need to tell their tax preparers about this - many tax folks may not know about this as it is still relatively new and somewhat obscure. They should be especially careful to make sure the tax preparer understands that **this is different than the rules before 2003 which required that the adoptive family have out of pocket expenses.** They should tell the tax preparers that the forms to use are:

- **IRS Form 8839 and**
- **Instructions for Form 8839.**

Adoptive families and tax preparers need to read the forms carefully because at first glance it does not look like they can do it unless they actually spent money of their own - tell them to keep reading!!